being obeyed, and if the Legislase the provision is mandatory it is quence. The power of the legislators over this subject is unlimited. Therefore, to say the subject is unlimited. Therefore, to say that the provision of the Constitution tion before the court. It would be a strange shall make an apportionment. The learned which directs that the Legislature shall rule of equity that would permit appellee and excellent counsel says 'any session.' exercise that power and at the same time takes away that power is illogical. Were this rovision not in the Constitution the Leg-slature could allow unlimited time to elapse before making an apportionment. But while the Constitution confers the power of making apportionments at certain periods, it does not take away the power The question is, is this provision mandaory or simply directory in "its terms? Wherever the Constitution directs the legslators as to the substance of legislation there is implied or expressed limitation, but wherever they are directed to exercise the power, and that power is not limited in expressed terms, there is no limitation. That which directs the Legislature to apportion every six years does not go to the essence of what they are to do. That which says the Legislature, in making the apportionment, shall do it in such and such a way does go to the essence of the subect. There is a limitation. The Legisla-ure is then commanded to do this thing, but to do it in a certain way. We are sometimes told this is a discretionary matter. The Legislature has no discretion when it comes to the subject of apportioning the legislators among the countles of the State according to the male inhabitants thereof. That is mandatory. The avisions of the Constitution on that question are mandatory. Who is to judge of that power, and shall the courts say it does not exist? They will not interfere with the Legislature unless the Legislature clearly, palpably and beyond doubt crosses

Mr. Bynum said the courts will not by mplication give to the provisions of the constitution inferences which cannot be rawn from the direct words. "Words and plications," said he, "cannot stand to-ther. One must fall and the other stand, or they will go down together.

"The claim is that the act of 1895 con-flicts, not with the provisions of the Con-stitution, but conflicts with an implication that may be drawn from that Constitution. It is only where there is conflict between the act of the Legislature and the expressed rules of the Constitution that the courts are permitted to hold them invalid -- not because it conflicts with the mere mplications. It is only where there is direct collision between the acts of the Leg-islature with the expressed provisions of the Constitution that courts will hold them

Mr. Bynum read a decision from Twentieth Ohio to the effect that the act must directly conflict with the words of the Con-stitution before it could be held invalid, and that a mere implication of collision was d, "could declare that an act which in no wise subverts the Constitution is reougnant to its provisions? The implication that arises from this construction must be an implication that grows out of the words of the Constitution itself. There is no conflict between the words of the Constitution and the provisions of this act of 1895. In order to sustain the contention of appellee, you have got to go further and say that the ramers of the Constitution intended there should be no legislation, but the Constitu-tion does not say that. It gives unrestricted power to the Legislature. The act comes in conflict with the implication and not the words of the Constitution. So long as there occurs to the minds of this court some other motive may have nto effect, there will not arise such an implication. In adopting this Constitution did he people tie their own hands? This power is not a power conferred by legislation. It is a restriction by the people themselves. Was it because they were afraid to trust themselves with this power, or was it beture to exercise this power at reasonable times this provision was made? The Conlitution fixes the day on which general lections shall be held. No one will quesion but this is not an exercise of the legthe day it would be incumbent upon the islature to fix the day on which the gen-l elections should be held. I apprehend one will hold the Legislature could pass an act fixing the day for the elections behe Constitution. There would be two days in conflict, the statutory and the consitutal, and one or the other would down. here the Constitution fixes the qualificaualifications. We contend that the nly safe rule is that unless there is diof the Constitution and the act of the Leg-islature, the courts should decline to in-terfere. What tribunal would undertake to sclare an act of the Legislature and the Constitution were in direct conflict when it was necessary to draw that conclusion

OPINIONS OF HENDRICKS AND WILL-IAMS. "I have admitted the Legislature should obey the mandatory provision requiring apportionments shall be made every six years, but the question is-whether it has the authority to legislate at any other time? Governor Hendricks, in his message to the Legislature in 1875, used this language, mending a reapportionment and calling attention to the inequalities of the act of 1872: 'The question is not free from constitutional doubt in my mind, but should you be satisfied that the law may be maintained, then the reasons in its favor are conclusive.' In other words, if the Legislature believed it could act, it should act. And it did act. Later, Governor Williams said: 'Many will say this is not the year for the apportionment. While the Constitution makes it obligatory every six years, it does not say it shall not be done at any other time.' I know it is usual to consider the legal ability of an authority in giving weight to opinions uttered, but Governor Williams had long experience and knew the condition of the public mind on this question. A committee of five was an And it did act. Later, Governor Williams this question. A committee of five was ap-pointed to consider that question. The mi-nority reported against the Legislature taking any steps at that time. The majority right to pass a bill at that time. The report was voted down and the najority report adopted. The passage of the act was prevented by the resignation of the constitutional majority necessary to the passage of the bill could not be ob-tained. In 1874 the question was again raised in the House of Representatives, and this Leislature. I think, was probably the superior, certainly the equal, of any Legislature that ever assembled in the State of Indiana for legal talent and ability. The question was submitted to the judicommittee as to whether the Legislature had power to apportion the State at that time. Two reports were made, one by the majority and another by the minority. Mr. Davis, of Floyd, one of the ablest lawyers that entered the legislative halls of the State, reported for the majority The majority report was It held, in substance, that the institutional provision directing apportionments should be made every six years did not make it impossible to make them more frequently, and a bill was drawn and passed by a constitutional majority. In favor of that report were such able lawas Samuel H. Taylor, Davis, of Floyd, ind. I think, Judge Turple, of Marion.
"The construction for which we contend, strictly within the rules of constituional interpretation, is of such transcendent importance in this case as to demand consideration upon higher prinples. While it is true that the people when they adopt a constitution tie their own hands as well as the hands of their agents, courts should hesitate long and seusly before extending, by inference, even the strongest cases, limitations upon heir legislative sovereignty, where that exension will deprive them of an opportunity rrect for a long period of time an abuse of legislative power affecting their right to an equal participation in the administra-

tion of public affairs. ACTS OF 1893 AND 1895. "They insist that this act is void because the Legislature has not the power to legislate upon this subject at any time; that the direction in the Constitution is for the purpose of taking away the discretionary power of the Legislature. We hold that is not the only implication that can arise, and conflict with the words of the Constitution. We say the appellee, or plaintiff, had no standing in the court below. He brings this action not only in order to have the act of 1895 declared unconstitutional, but to have the election held under the act of 1893. In other words, he brings a two-fold action, first to enjoin the defendants from per-forming their duties under the act of 1825 and to mandate them to act under the law of 1893. We say that the act of 1893 is not constitutional. It is clearly in conflict with the words of the Constitution. The Constitution directs that the Legislature shall apportion 'according to the number of male, inhabitants over the age of twenty-one years,' and that the districts 'shall be made ip of contiguous counties.' I shall not enter upon a discussion of whether or not the court has a right to investigate this ques-In Parker vs. Powell the court held the act of 1891 was unconstitutional. Now, it is said the Legislature of 1895, in repealing the act of 1893, declared it un-

ose of being obeyed, and if the Legisla-ure does not obey that provision of the constitution it is not doing its duties, but right to declare an unconstitutional act in the attempt to establish an estoppel. constitutional, it possessed the same rights | The last stated enumeration occurred in as the people. No officer is compelled to 1889. The Constitution says that the Genobey an act which he believes unconstitu- eral Assembly at the session next followto go into court and ask the court to de- The Constitution says the first session clare an act unconstitutional and at the same time ask it to restore an act that was equally obnoxious. The act of 1893, which | not see how there could be a more rank appellee asks to have restored, was the same as that of 1891, which the court declared unconstitutional, in all material re-

tionable features of the act of 1893, but said he would leave the question of inequalities to his co-counsel, Mr. Ketcham. He took occasion to say, however, that if the rule of combining counties without the required unit of representation with those having a of the State. He said it provided the greater population than the unit of repre- Governor should be the commander-in-chief sentation, in order to make them contigu- of the militia of the State and might cal ous, for the purpose of legislative appor-tionment, he did not know what there was to prevent some future Legislature from tion fixing the Governor's salary and said combining the whole State into one dis-trict and apportion the entire quota, one nundred Representatives, to that single district. Such a course of action would be just as fair and just as equitable as to combine four counties, one of which did not have enough voters to entitle it to one separate Representative, with three other countles, giving the four two Representatives, thereby giving the county with less than the constitutional number of voters for one Representative double representation.

MR. BYNUM CONCLUDES. The only way of remedying such inequalitles rests with the people, the speaker said, and their representatives should be unrestricted in this respect. In concluding, Mr.

"The right of the people to reform at ev-ry session of the Legislature every abuse of the legislative power ought not to be restricted, except in the most explicit terms, and especially should this right be scrupuously preserved when there is the barest excuse, where it is to be exercised in matters affecting the very foundations upon which popular government rests-the right of the people to at all times and under all circumstances protect themselves against unwarranted encroachments upon and the

quality of their rights as citizens. "Should this court, however, conclude that the provision of the Constitution requiring an apportionment every six years, when once properly exercised, was an exhaustion of the legislative power until after the next enumeration, then this court must proceed to the determination of the question as to whether that power had been constitution-ally exercised by the Legislature at the designated time or by any succeeding ses-sion prior to the session which enacted the act of 1895.

Whatever construction this court may portionment every six years, there can be no uestion that the duty imposed is a continuing one, and rests with increased responsibility upon each succeeding session until constitutionally performed."

SENATOR TURPIE'S ARGUMENT. His Response to the Points Made by

Mr. Bynum.

Following Mr. Bynum, the opening argument for the appellee was made by Senator Turpie. "The contention of the appellant is," he began, "that there is no jurisdiction of the subject matter. We think

this court has jurisdiction and that the Circuit Court of Sullivan county had original jurisdiction to determine if the act of 1895 was consistent with the Constitution. Who is to determine the question of unconstitutionality? Certainly this tribunal. The decision of this court upon the constituland, the permanent law of the land. It is objected on the part of the appellant that the bill is brought for dual relief, an inunction upon one limb and a mandate upon the other branch. That is true. But the bill is carefully modeled after the complaint in the case of Parker vs. Powell. It is said, if it please your Honors, that this suit is prematurely brought; that it seeks to control the action of certain election officers at an So it does. But the fact that the election is remote is not what we count upon. It is just as competent for the court to make a decision now as next November. If the relate to get the decision of the court upon the questions involved. Where public officers act under the law and declare their intentions of doing so, the party need not wait until they have acted before taking steps to secure relief. These are but incidental questions. The great question is whether the Legislature could lawfully apportion the State at any period other than at the session next following the time of making an enumeration; whether the desig-

nation of the time is a command absolute or whether it merely permits an apportionment. The time when a thing may be lawfully done, when such time is designated only by statute, is held to be mandatory, when public interests are concerned or pub-lic rights effected. Such is the universal procedure. Could a municipal or town election be held upon any other day than that appointed for it in the statute? Take the sessions of courts, where times are prescribed for beginning and ending a termcould a court enter a judgment upon any day not within that period? If it did so, what would be the consequence? In other vords, what would be its value? Elections held on other days than those prescribed would be held illegal. These restrictions of time, where public rights are effected, are mandatory in their effect. May it please your Honors, this rule is not founded upon the idea that any time will do; it is founded upon the rule some time must be fixed, fixed, it cannot be done at any other time. It is to prevent clandestine elections and it is to prevent secret session of courts, like the Star Chamber and Council of Ten. When this rule is enforced no body of men

will ever attempt to hole an election and no body of men will attempt to legislate upon different topics except when they are au-thorized to legislate, and at no other time." Senator Turple cited quite a number of authorities which he held bore out this line of reasoning. AN ARBITRARY TIME.

Charta," he continued, "its measure of power, not only for the people it governs, but the governors in every department of the State government. When a time is fixed for the enactments of law and they are passed outside of that time, what becomes of the legislation? Such an act is not law. It is only the act of a town meeting. It is only the expression of an olnion not even binding upon those who statutory provisions of general interest, of the funudamental law of the State." The sections of the Constitution in contro-

by ex-Attorney-general Smith at Senator Turpie's request. Now, the question at bar is, whether the provisions of the Constitution are atory or directory. with the proposition that the provisions of this Constitution are not mandatory. They are mandatory. They are absolute, inless the language itself makes them directory. We hold, as the basis of our proposition, that the provisions are mandatory unless otherwise expressed in their own words. I grant you this question might have been made the subject of legislation. The Constitution might have pro-vided, as ancient constitutions did, that the Legislature might, from time to time, apportion the legislators. Apportionment is not a subject of general legislation. The onstitution made it the subject of a special grant of power-first as to the time when it might be done-at the session fol-lowing each period of enumeration; secand, the manner in which it might be done. Every six years the enumeration was to occur. Sextennial periods were essential both as to enumeration and apportionment. The first section is condensed; very much condensed; it reads, "at the session next following the period making the enumeration, the General Assembly shall fix the number of Senators and Representatives.' The fixing of the number is one of those powers. They have been so long accustomed to the maximum number they hold to fix the number at twenty-five Senators and fifty Representatives? They might as well have gone to work to diminish the number in 1895. If the clause in relation to fixing the number of members is mandatory, certainly the other part of the article is mandatory. They are parts of the same clause. The learned and worthy counsel for the other side has referred to the act of 1875 as if I had sald something different then from what is being said

He says the third session-any session Yet he holds there is no col collision than there is between the Con-stitution and the act of 1895. Could the ject of an apportionment? It was impossi-ble that they could act at that time; they had no power; no time, no power; no

Legislature of that year act upon the subtions of the constitutional provisions as to the duties and powers of other officers the Legislature might as well have tried to diminish that as to try to pass an apportionment act at a time other than at the session next following the enumeration. He covered the passage of laws by the different legislatures since the formaof the new Constitution in 1851 and pass a law of apportionment at other than the fixed periods except in times of emer-gency, like that under which the act of 1893 was passed, just after the Supreme Court had held the law of 1891 invalid, an action which resulted in leaving the State without law under which an election could be held and which rendered it im-perative for the session of 1893 to pass a new law. So long as there was a law force no new one could be passed and he held the assembly of 1895 had no author-

ity to pass an act repealing the law of 1893 and decaring it unconstitutional, as APOLOGY FOR THE 1893 ACT. "It is true, as my learned friend ha said," he continued, "that the act of 189 was passed at a time not following the period of enumeration, but we call your attention to the fact the act was passed in an extreme emergency. The General Assembly of 1891 had failed to perform its duty. That made it imperative for them to undertake to do it. They passed an act which was by this honorable court declared to be unconstitutional and void. When this act was declared invalid the session had gone out of office and their successors had been elected a month before. It foilowed when the General Assembly met the State was without an apportionment law. The means for forming must be perpetual. There were a few days in which we had no law for the election of a legislature for the State. It was necessary for them to act at once and per-

neglected. They performed that duty and passed the act of 1893." Senator Turple then went into the ques tion of previous adjudication of this He seemed to think the failure of the same parties to prosecute a former action to a decision might act as a bar to the proceedings under consideration. He recited history of the case of Wishard against clerks, sheriffs and auditors of the State and said it had been dismissed without final adjudication. Mr. Ketcham objected to an expression from the Senator to the effect that the record was under consideration; he said he had been misun-derstood and had said the record was in the hands of the court, which must take cognizance of it. Senator Turple said the General Assembly of 1895 had recognized the constitutionality of the act of 1893 when it undertook to repeal that act. If the act was unconstitutional, it was void and of no effect and needed no repeal.

form the duty the Legislature of 1891 had

The Senator's argument had consumed one hour and forty minutes. When he finished it was long past the noon hour and an adjournment was taken until 2 o'clock.

A DEFENSE OF THE '03 ACT. Ex-Judge Elliott Compelled to Cut His Argument Short.

Ex-Judge Elliott said in opening his argument: "The basis of the proposition on my part of the argument shall be this, The command is that each enumeration shall be followed by one apportionment and no more, and that the apportionment shall be made at the next session following the making of the enumeration. This is my principal proposition. A mandatory provision commands that a thing be done, and in any instance where a statute is passed in defiance of that command it is making an enumeration and enacting an agree that the portions of Constitution in controversy are merely definitions of the legislative power. This section relates to the General Assembly of the State of Indiana. It gives it life, power, being and form. All the power, all the substance of power, all right to organization that it possesses is due to these sections of Article 4, of the Constitution. They define the power of the General Assembly upon this subject of enumeration and apportionment. They are limitations in the highest and strongest sense of the term. They are not mere directions, but they are commands, mandates from the command the Legislature at the session next following the enumeration to pass an apportionment law, and any apportionment law passed in defiance of the limitation is absolutely and totally void, unless there are some interfering incidents which postpone legislative action. It is to be remarked that these sections, 1, 2, 3, 4 and 5, may be done must be fixed, and when it is is a unified subject. There is one single, fixed, it cannot be done at any other time, inseparable subject; namely, apportionment - enumeration and apportionment. There is no possibility of severance, and the argument of the learned gentleman will not stand. He says some of the provisions may be regarded as mandatory and some as directory. There is an unbroken unity. You cannot wrench any one of these provisions from its place. These clauses are intended to be mandatory—they are mandatory, or there is no power in the English language. Not one word can be stricken from these sections without a plain vio-"The Constitution of Indiana is its Magna out the word 'next?' Can you strike out the word? Where is there any power to make more than one enumeration or more than one apportionment? If that power exists, whence is it-where does it come from? Certainly not from the Constitution. The power must come from the instrument if it comes from anything." Judge Elliott recited the facts leading to the adoption of the Constitution. He said when the convention was called it carefully considered and weighed every word writ-ten. It had before it the example of other States. "Would it be wise," he asked, "for the Legislature to insert every word that some might wish there for the purpose of how much more must such mandates be strictly maintained when they are con-tained in the Constitution and are part and statute books would become enormouselucidating meanings that ought to be clear?" If so, he thought our Constitution ly and unnecessarily large. Courts must use judgment and the construction must versy, four and five of Article 4 were read | be placed upon the written words that com-

mon sense would dictate.
"The Legislature of Indiana," he resumed, "is not the people. It is the representative. Constitution are the servant of the people. The powers of They start out the legislators are limited and restricted. If the provisions of the Constitution are directory, why was it the people of Indiana deemed it necessary to strike from the Constitution the word 'white?' If the provisions were directory and not mandatory, why strike out the word 'white?" " Judge Elliott touched upon the conditions of af-fairs that existed when the act of 1895 was passed. Like Senator Turple, he considered when the Legislature of 1893 convened it had before it the duty of passing an apportionment act to fill the vold created by the decision of the Supreme Court holding that of 1891 unconstitutional. "They did what they were obliged to do. They did their When the Legislature of 1895 conduty." vened it found a valid, living apportionment act extant and had no right to declare that act unconstitutional. It had no right to repeal the act in force and pass another, he held. An apportionment law once passed must stand until the constitutional limit has been reached for taking an enumeration, when another law must be passed, and not before. He went into the history of the Wishard case and held the record was in the hands of the court and it must take cognizance of the fact a judgment had been rendered by the lower court and that the judgment of the lower court was the binding decision until an appeal was secuted to final adjudication. that judgment an appeal was taken to this court. Why was it dismissed? A decision of the Circuit Court in this city, unless reversed by the Supreme Court, fixed the status of the great question. The Legislature of 1895 acquiesced in that dismissal. They undertook to repeal, and did repeal Why did they repeal that law if it was vold? Shall we attribute to the 'grave and reverend seignors' the folly of repealing a law already vold? When that Legislature

yonder dome as to try and force another apportionment law into the place of that of 1893."

Senator Turple had occupied all but fifty minutes of the time allotted to counsel for appellee and Judge Elliott was forced to bring his argument to an abrupt close.

Ex-Attorney-general A. G. Smith followed Judge Elliott with a twenty-five-minute address. He went into the history of the early Constitution and the convention passing the Constitution of 1851. He held the convention of 1851 carefully conidered the question of fixing the period for enumerations and apportionments. Under the Constitution of 1816 it had been the rule to make enumerations and apportionments every five years. The convention of 1851 changed this provision, making the period six years. In the early acts pass it was provided the apportionment should remain valid "for five years," and in the acts passed under the new Constitution a clause was embodied in the act or entitling clause to the effect that the apportionment was to stand for but six years. He inferred from this it was the intentio of the convention to limit the time for making apportionments to the session next following enumerations, and that they should be made at no other time.

MR. KETCHAM'S FIGURES. He Shows the Great Unfairness of the

Mr. Ketcham was glad, he said, to find his esteemed opponent, the ex-Attorneygeneral, had been able to find anything good in the writings of so eminent an authority as the late Governor Morton, and, much as he regretted this controversy had arisen, he was glad that much good had been accomplished, at least. He reviewed the case, giving a history of the proceedappear before the court and help it to solution of the questions involved. Mr. Ketcham had no personal interest in the case, he said, and was not there as the representative of any person, but as the representative of the Commonwealth. He said the question arose upon the construction of the Constitution. He reviewed part of the ground covered by Mr. Bynum, but confined himself more particularly to a discussion of the rank injustices and inequalities of the act of 1893, which appellee "If the court," he said, "should be of the

opinion that the Constitution, in terms or

by implication, forbids the making of a new

apportionment within the discretion of the

Assembly except at the sextennial period,

of 1893 is within the requirements of the

Constitution, for unless it is, it was not only the right, but the duty of the Fiftyninth General Assembly to pass an appor-tionment act. An unconstitutional law is no law; it is void-mere waste paper."
He said he recognized the difficulties preented by the record: First, the unwillingness of courts to adjudge the act of a coordinate body as unconstitutional. nevertheless, the court had before it the necessity of upholding the act of 1895 or setting it aside because the act of 1893 is constitutional. "I recognize," he said, "that while there were objectionable apportionments before the act of 1891, no applica-tion had ever been made to the courts for relief until the case of Parker was preented." If the court should hold that the Legislature is restricted in making apporionment laws to the sextennial period then he thought there would remain for its consideration the question, "Was the act of 1893 constitutional? Did it comply with constitutional provisions?" "In discussing this question," he said, "I am well aware that the game of politics is a game of war; but I insist that the war shall not be fought with poisoned arrows. I do insist that the standard shall be that of the Golden Rule or the Sermon on the Mount; neither am I prepared to concede it should be the standard of Rob Roy. An apportionment 'according to the number of male inhabitants above twenty-one years of age' is not made by giving to each of twentyseven counties with an enumeration less than the unit, ranging from 3,744 to 5,494, a separate representative and denying one to Jay with an enumeration of 5,825, 315 in excess of the unit, nor is it more constitutional when it is found that after being accorded a separate representative, six of them, with enumerations of 4.386, 4,691, 4,873, 4,897, 5.237 and 5,493, respectively, are tied to other counties with the result of throttling an adverse majority. A constitutional apportion ment is not made by taking the quadri-lateral of Dubois, Martin, Lawrence and Orange and binding them together so that Dubois shall dominate both Lawrence and Orange and return two representatives when it has not enough inhabitants to equal the unit by 1,179, nor is it attained by giving to twenty counties with an enumeration 95,592 twenty-one representatives, besides double representation, and giving to twenty counties with an enumeration of 125,324 but neteen representatives. In the first case the counties were only entitled to seventeen presentatives, while the latter were entitled to twenty-three. There is an instance of forty-three counties which have only an enumeration of 221,339, but they are given the right to elect fifty-one representatives, while the remaining forty-nine counties, with an enumeration of 329,661 elect but forty-nine. If this be honesty, commend me to a thief. If this be constitutional, let it be so written, but write it in sorrow and Constitution provides that the purpose of into districts shall for Clinton county contiguous with Madison, but Tipton, already represented, is used to constitute artificial contiguity between them, county is not contiguous with Ripley, but Franklin serves the same purpose with Rip-ley, already over-represented. Jay, already disfranchised, is mocked by putting it into a district with Adams and Blackford to swell heir representation. This court, in the Parker case, has said what constitutes contiguity with clearness and precision, and held that such pretended contiguity was unconstitutional." Continuing along this line, Mr. Ketcham owed how Marion county might be iin with other counties to the north or south and entirely deprived of the right to sepa-rate representation by being compelled to submit to unnatural majorities created by an unlawful combination. He showed the

between the acts of 1893 and 1895, and gave figures to prove that under the act of 1895 the party electing State officers since about 1880 would under it have a corresponding majority in the General Assembly. THE HOLIDAY MEETINGS.

relative degree of fairness that existed as

American Economic Association Will Be Here, Too.

The American Economic Association and

the Political Science Association of the Central States will hold sessions in Indianapolis, from Dec. 27 to Jan. 2. This will be the eighth annual meeting of the former association and the second meeting of the latter. Of the former John B. Clark is president, and Prof. Jeremiah W. Jenks, of Cornell University, the secretary, while Jesse Macy and George W. Knight act in like capacities for the other association Many of the speakers on the programmes for these meetings are men of national reputation. Prof. John B. Clark, of Columbia College; Professor Irving Fisher, of Yale; President Francis A. Walker, of the Massachusetts Institute of Technology; Gen. A.
J. Warner, president of the American Bimetallic League; Prof. F. W. Faussig, of
Harvard, and Prof. Albion W. Small, of the University of Chicago, are among these. Nearly all the large colleges and universities of the country will be represented. The Indiana State Teachers' Association will hold its forty-second annual meeting in the Statehouse Dec. 26, 27 and 28. J. R. Carnagey, of Columbus, who is here making arrangements for the meeting, says he thinks it will be the most successful one ever held by the association. This meeting will include the meetings of a number of other allied associations, which will be here at the same time. On the

evening of the opening of the meeting Howard Sandison, of Terre Haute, who was elected president last winter, will deliver his opening address immediately following a few introductory remarks by President Swain, of Indiana University, the retiring president. The annual address will be delivered the second evening by Dr. Nicholson Murray Butler, of Columbia The other organizations that are connected with the general association and which will meet at the same time are the High School Section, the County Su-perintendents, the Indiana Academy of cience and the Indiana College Associa-

leading college men of the State. Dr. Metcalf Still Holds the Key. The State Board of Health will meet today and attempt to settle the bothersome question of a successor to Dr. Metcalf. The repealing the act of 1893, declared it unconstitutional, and that the Legislature has
no judicial power and in passing such a
clause went beyond its province. We all
know the Legislature has no judicial power,
but you do not have to go into court to

AND BRAVADO

WONDERFUL DISPLAY OF BOTH BY CATHERINE GING'S MURDERER.

Details of Hayward's Execution-Died with a Gambler's Phrase on His Lips-Result of the Autopsy.

MINNEAPOLIS, Dec. 11.-With a gamon his face, Harry Hayward, the murderer of Catherine Ging, faced the eternal this

"Pull her tight! I'll stand pat." These were the last words he uttered as the deputy, with blanched face and trembling hands, pulled the well-soaped noose as tightly about the murderer's neck as he could, in order that death might come the more quickly and more surely. It was twelve minutes past 2 o'clock when Sheriff Holmberg pulled the lever and thus released the trap on which Hayward stood. In just thirteen minutes County Physician Frank Burton declared that the swinging figure, in which not a movement or struggle had been observed, was that of a dead man. The final act in the great tragedy of life and death had been played and the curtain had been run down on the career of the

The coolest man at his own execution was Harry Hayward. Debonair as ever, what had seemed mere affrontery during his jail days, now became in the great, dimly-lighted gallows room the courage and indifference of a man who was at least not afraid to die. Not a man of the little knot of privileged spectators who had kept a long vigil in the big gray room but whose heart thumped more loudly than that one which was so soon to cease its beating; not a face but turned more ghastly than his in the gruesome light. It was a scene never to be forgotten, when at last, after what had seemed endless hours of waiting, the death march appeared at the door. The one gas jet had been turned off, and the room was illuminated only by a locomotive headlight suspended about four feet huge cone of light threw a horrid, distorted shadow of the engine of death on the rough, whitewashed wall behind. Two nooses were discernible, both well tried and tested, one being held in reserve. A deputy had carefully chalked two circles where the feet of the doomed man were to stand, and had outlined the trap that there might be no mistake in the uncertain light. The chief deputy mounted the scaffold, where Warden Wolfe, of the State penitentiary, ex-Sheriff Winn Brackett and Sheriff Chappell, of St. Paul, were already waiting, and directed that every hat be removed and that there be no smoking. A cordon of police-men filed in and made a little passageway for the death party.

Meanwhile the prisoner had been made eady in the cell room, his black silk robe had been put on and the black cap adjusted. Suddenly the door was thrown wide open and the sound of an inarticulate floated in from the cell roo prisoner's comrades were taking their farewell; then three hoarse cheers for Sheriff Holmberg, led by Hayward himself, and a "He's all right." It was awful—sucn a demonstration led by a man on his way to meet death. As its echoes died away, the sheriff appeared, followed by the prisoner between deputies Bright and Anderson and deputy

Megarden bringing up the rear. ON THE SCAFFOLD. Harry Hayward entered the death chamber with the same easy stride that marked his promenades when he was a youth in society. "Good evening, gentlemen," said he in clear, even tones, as he bowed his way into the room, wearing his somber garb so jauntily that its grotesqueness was forgotten. As he made his way up the stairs to the scaffold he tripped on the unaccustomed gown. This amused him and he laughed at the first step. As he strode up on the trap the deputies looked more like frightened children hanging to a parent than officers of law. Harry Hayward might have posed for a figure of justice defending the weak, instead of a murderer going to his doom. Carefully placing his feet on the marked spots, he drew his splendid figure to its greatest height and glanced about, his calm face occasionally brightened by a smile of recognition as he descried some

say Hayward replied in a careless, drawling tone. "Well, yes." He moistened his lips with his tongue. "Well, to you all," he be-gan, "there has been a good deal of curios-ity and wonder at my action and some of you think that I am a very devil (with a peculiar drawling accent on the first syllable of that word) and if you all knew my whole life you would think so all the more. I have dictated a full statement of all the events of my life to Mr. Edward Goodsell, Mr. J. T. Mannix and a stenographer-let's see, what's that stenographer's name?"—and Hayward peered down over the edge of his scaffold as if expecting some one to answer. Where's Uline?" he went on, somewhat disconnectedly. "Uline here? I promised to take his dog with me under my arm to make him a record. It would be a good thing for the dog. Doyle, you told me to bow to you. Where are you? Aren't you here? I can't see you," and the speaker peered about for the detective.
"I'm here, Harry," called out Doyle.

On being asked if he had anything to

"Well then, good evening, Mr. Doyle, said the prisoner, smiling graciously and Then, taking another tack, called out: "Clemens, did you get that tick-et?" A hat was shoved up into the cone "Ah, that's good. Mannix, let me see now," and Hayward hesitated with the em-

barrassment of a man who has forgotten "Take your time," said Sheriff Holmberg. "Let me see now, I certainly had some-thing to say to Mannix, because I have always entertained the kindest feelings for im. Joe, remind me of what it was; you

know I have been having trouble with my memory lately."
"Say nothing more in that line." came in low, distinct tones from Mannix. "You are about to meet your God, and should express here your forgiveness for your brother, as you did so nobly to me today, and with thoughts of your mother and father before you you should act as you have during the last forty-eight hours, meeting death manfully and forgiving all those toward whom you have borne any ill will up to this time."

FORGAVE HIS BROTHER. "Forgive him," said Harry, as Mannix finished. "Well, I have freely forgiven him for any imaginary wrong he thinks he has done me. He has done me no wrong. have done him a great wrong. Father Cleary, Father Timothy and Father Christy have taken a great interest in me, and have exerted themselves greatly about my spiritual welfare. I have the greatest respect for each of them, and for John Day Smith, my lawyer, also. He is a good man, and a Christian as well as a lawyer, and I have promised him to say something here to-night which I should probably not have said of my own accord." With an effort Hayward turned his eyes upward, and re-peated in a strident, meaningless voice, quite different from the conversational one he had been using: "Oh, God, for Christ's sake forgive all my sins." An empty mockery that, or the cry of a soul unused to prayer. Later events showed it to be probably the former-just

"Oh," resumed Harry Hayward, dropping back to his former easy tone, "is Goodsel When told that Goodsell was absent he continued: "Well, Dr. Burton, I think I have something to say to you." What it was will never be known, for the Doctor stopped him with the suggestion that he had better not say anything. Hayward stood a moment in thought, as

if telling the names of those he wished to remember in his last words. Satisfied, apparently, that all had been done that he intended, he half turned his head and flung back over his shoulders: "I guess that's all. Now, Phil Megarden, The straps were quickly adjusted. As the

'Let's see, where does the knot go, under the right ear? No. it's the left, isn't it? Please pull it tight. That's good. Keep tion. The last named association will have an extensive meeting Dec. 26 and 27. A number of papers will be read by the your courage up, gentlemen The prisoner's face purpled slightly as black cap was turned down. It was Harry's last glimpse of earth.
"Pull her tight! I'll stand pat," he said.
Megarden stepped back, raised his hand
in the fatal signal, and like a shot the body dropped through the opened trap. There was not a tremor or struggle, and spectators waited breathlessly while the doctor listened to the fluttering heart. Thirteen long minutes passed. Dr. Burton stepped back, and the spectators began to file out. A deputy loosened the strap that

bound the hands. They fell inert at the side of the body. Harry Hayward was dead.

WHAT THE AUTOPSY R_/EALED.

Some time before his execution, at the request of his brother, Dr. Hayward, the condemned man consented that an autopsy should be performed and his brain examined. This was done at the morgue to-day by a committee of physicians, headed by Dr. W. A. Jones, the brain specialist, and Dr. H. A. Tomlinson, formerly superintendent of the insane asylum at St, Peter, Careful measurements of the head showed The line through the ears was long, the forehead narrow and retreating and the bones very thick. Beyond much question Harry was a degenerate. Such is the belief of one of the specialists who conducted the autopsy. Of the four stigmata named by Caesare Lombrosa, as invariably characterizing degenerates, three have been found, namely, marked symmetry of the skull, brain and face, protruberant front teeth and a narrow and sharply arched palate. The fourth one lies probably be found to exist when the proper calculations have been made of the skull measurements. The brain has been found and the defects in it, if any, are too subtle for either knife or microscope to detect, The aged parents spent the last night o their son's existence in their own apart-ments, at No. 16 Fourth street, south, at-tended by their oldest son, the Doctor, and a number of kind-hearted ladies who did their utmost to console and help them. They had expected to make Harry a last visit during yesterday afternoon, but strength and courage failed them. The old father, whose whole frame shakes with palsy, is a pitiable object, but his mental condition is not so bad as might be expected. The mother has borne up remarkably well, but those who know her her ably well, but those who know her best fear for her reason. This afternoon they followed Harry's remains to Lakewood Cemetery, where they were laid away after a few simple words by Rev. Dr. Marion D. Shutter, Universalist. The funeral ceremony was held in the little chapel at the ceme-tery and was attended by a very few friends and the members of the family, Adry included. After the words of Scrip-ture and prayers, Mrs. Hayward desired to place some flowers on the casket and, supported by her son, Doctor Thaddeus, and her husband, advanced to do so. She walked around the head of the coffin strewing carnations as she did so. When she had arrived at the hight hand side of the bier she hesitated. In response to a signal from her Thaddeus and her husband loosened their support of her and she stood alone. She raised her clenched hands and broke forth in a low moaning tone: "Poor, dear Harry! Poor, dear Harry! My baby Harry! Poor, dear Harry. The chains bind me, but they can't chain my soul; I come again! Poor, dear Harry! Poor, dear Harry With this the mother half started toward where Adry sat. In stopped, and lifting his face in her hands, "Tell him I've forgiven him mother Her reproachful tones echoed in the silent Seemingly half crazed, the bereaved mother turned from her elder boy to where her youngest lay, and fell fainting into a seat near by. It is supposed that the lengthy autobiog-

raphy which Harry Hayward dictated to a stenographer last night contains a full confession of his own connection with the murder of Catherine Ging, as well as sensa-tional accounts of other crimes in which he has been involved, but the real facts will not be known until the statement is printed in book form. The book was an idea which occurred to Hayward only a day or two ago, and it was his belief that it might e made profitable to his cousin, Goodsell, Accordingly, he dictated it at length to stenographer Richard Mabrey, in the presence of Goodsell and Joseph T. Mannix, a reporter. These three are the only persons who know its contents and, naturally, will divulge nothing. It is pretty certain, how-ever, that Harry told them all and that his story confirmed Blixt's story, told at the trial, very completely. Harry's own idea was that as he did not actually commit the deed, he was not guilty. He never could be convinced that he was not free from guilt since his own hand was not imbrued in Catherine Ging's blood. Hayward also made several statements to the public in the honograph and the owners of the instruhope to make money by permitting he public to hear Harry's own voice after

its owner has been laid away.

Several alleged confessions have been published, but there is no certainty that any of them are true. The latest was one printed yesterday afternoon, in which Hayward is said to have confessed to Dr. Bur-ton and a reporter how he induced Claus Blixt to kill Miss Ging.

Durrant to Die Feb. 21. SAN FRANCISCO, Dec. 11 .- The attorneys for Theodore Durrant moved for a writ of probable cause for order to prevent the prisoner's removal from the county jail to the State prison at San Quentin. The court denied the motion and subsequently signed Durrant's death warrant, fixing Feb. 21 as the date of the execution.

SHERIFF WOMACK'S REPORT.

Actual Expense of Taking a Man to Prison Is \$18.55.

One-half of Sheriff Womack's term of office expired Tuesday. During the year, the reports show, he served 8,000 papers for the Criminal Court, 2,576 for the Superior Court and 467 for the Circuit Court. One hundred and seventy-four prisoners have been taken to the Prison North. The actual expense of taking a man to prison, the sheriff says, is \$18.55. He is allowed 3 cents a mile by the State. For feeding prisoners the sheriff gets 40 cents a day for each inmate. The records show that 1,257 white men, 646 colored men, 52 white women and 39 colored women have been confined in the jail during the year, and charge of the sheriff.

THE BAILIFF ORDERED IT.

Painting in a Court Room-Another Allowance to Mr. Mack.

The County Commissioners yesterday allowed a bill of Police Commissioner Mack for \$2,249 as part payment on the courthouse improvements. Mr. Mack had already received \$2,000. One item in yesterday's bill was for the decoration done in Room 2, Superior Court. This work cost the county \$20. It was ordered, it is said, by one of the bailiffs connected with the court without the knowledge of the com-The commissioners paid the courthouse gas bill for the present month, amounting to \$233.33, and allowed the bill of \$150 for insurance on the buildings at the poor

Mattie Goatley, Poisoner, Bound Over. Mattle Goatley, the twelve-year-old colored girl who put Rough on Rates in the coffee of the Teetus family Tuesday, waived examination in the Police Court yesterday

morning and was held for the action of the grand jury on the charge of attempted murder. All the persons who were affected by the poison are out of danger, but are yet suffering from its effects. Jennie Graves Declared Insane. Jennie Graves, who thinks she is a detective and imagines she used to be police matron, was declared insane yesterday. Dr.

Kahlo, police surgeon, testified before the commission that the woman showed signs of excessive indulgence in strong drinks. NATIONAL



Tube Works Steam and Water.

Boiler Tubes, Cast and Malle-able Iron Fittings (black and galvanized), Valves, Stop Cocks, Engine Trimming, Steam Gauges, Pipe Tonga, Pipe Cutters, Vises, Screw Plates and Dias, Wrenches, Steam Traps, Pumps, Kitch-en Sinks, Hose, Belting, Bab-bit Metal, Solder, White and Colored Wining Wasts, and Supplies a specialty. Steam-heating Apparatus for Pub-lic Buildings, Store-rooms, Mills, Shops, Factories, Laun-dries, Lumber Dry-Houses, etc. Cut and Thread to orter any size Wrought-iron tipe, from 1/2 inch to 12 inches diameter.

75 and 77 S. PENNSYLVANIA ST.

Prediction Comes True.

There Has Been a Very Great Reduction in Indianapelis of Those Suffering From Kidney Ailments During the Past Three Weeks.

SOME RETAIL DRUGGISTS PLACE THIS ESTIMATE AS HIGH AS THIRTY-THREE PER CENT.

Hobbs's Sparagus Kidney Pills Are Doing Heroic Work.

Dr. Hobb's prediction, made some three weeks since, that he would reduce the total number of those suffering from kidney troubles by the use of his Sparagus Kidney Pills in Indianapolis fully twenty-five per cent. within three weeks, is fully verified. In the face of the convincing evidence that has appeared in these columns in favor of this harmless remedy and the general publicity that has been given to the matter, it would appear to the average person that anyone who was suffering from kidney disease would have by this time taken advantage of Dr. Hobbs's grand discovery and thoroughly proven specific.

However, for the benefit of those who may boy! My dear baby boy! God has forgiven stil doubt the efficacy Hobbs's Sparagus Pills possess, we herewith append to this article more convincing proof.

Unable to Turn Over.

Mr. M. W. Peachee, of 16 Water street, when seen by a Journal representative said: "I have been an intense sufferer from kidney trouble. At times I was scarcely able to turn over, being compelled to lay for hours at a time on my back. I got a sample package of Dr. Hobbs's Pills, and used them according to directions. They have afforded me the greatest relief, and I am only too glad to tell others afflicted as I have been, that these pills simply work wonders. I will tell my story to anyone who may call upon me."

The Oldest Plumber in State of Indi-

For the past ten months has been a sufferer from kidney and bladder diseases. The first week's experience with Dr. Hobbs's Sparagus Kidney Pills gives him so much relief that he was able to work. He says: "I certainly will advise all my friends to use this new discovery for kidney cure. "W. L. RAMSEY. "451 N. West street."

Five Men at the Union Station. Five employes and one official to-day speak with high praise for Dr. Hobbs's Sparagus Kidney Pills.

One of their number says: "Before using the Pills I was going to the doctor, but now I owe my doctor bill to Sparagus Pills. They have cured me." The Journal has the names of these five

gentlemen and can furnish them on appli-

Dental College Student. Mr. Edward Rabus, of the Indiana Dental College, residing at 121 North Capitol avenue, says: "I have been a sufferer from weakness of the kidneys for more than a year. I saw Dr. Hobbs's offer and obtained a sample package from the Sentine office. I received such a relief that I purchased a box, and the work of improve-

ment still goes on. I am more than gratified at the splendid and unexpected results." U. S. Pension Office. Mr. P. J. Fallon, of the United States Pension Office, Indianapolis, says: "When I first noticed the advertisement of Dr. Hobbs's Pills, I made up my mind to use them, as I had been troubled very much with my kidneys, and suffered greatly from backache. Have not

yet quite used two boxes, and must say that I have experienced what I believe to be a permanent cure. I have not had any return of the trouble for the past ten days." Ticket Broker.

Mr. D. H. Parmelee, formerly of the C., H. & D. and the Monon R. R., but now con-nected with Frey's Ticket Broker Office, of 122 South Illinois street, said: "! obtained a sample of Dr. Hobbs's Pills at the Sentine office, which I have not quite used, but from the effects produced by what I have already taken. I am free to say that I regard the Dr. Hobbs Pills as a splendid medicine for the kidneys. Their action is at once pleasant and effective."

Undertaker.

J. W. Foutz, the undertaker, of 51 Indiana avenue, who has suffered from a complication of bladder and kidney trouble for some time past, stated to a Sentinel representative that he had been greatly benefited by the use of Dr. Hobbs's Sparagus Pills. He says: "I am still using them and continue to receive great relief. I have no hesitation in strongly indorsing them to any who may be afflicted as I have been."

Saloon Keeper. Mr. Henry Ostendorf, of 81 North Illinois street, said: "I obtained a sample package of Dr. Hobbs's Sparagus Kidney Pills for use in my family, one of whom has had serious kidney trouble for some time past. Since using them I am glad to say there has not been a recurrence of the trouble.

shall always keep them for use in my From a Doctor. INFLAMMATION OF THE BLADDER, Indianapolis, Dec. 9, 1895. Hobbs Medicine Co., Chicago, Ill. Gentlemen-I wish to report the following case I treated with your Sparagus Kidney Pills, sent me Nov. 21. Case first. Mr. C. D. McMale, fifty-three years old, with chronic cystitis, after taking most of the pills sent, reports much improvement.

> Yours respectfully. DR. MATTHEW D. COOK No. 20 Thalman avenue, Indianapolis.

Backache in a Lady. Indianapolis, Ind., Dec. 7, 1895. Dear Sirs-I have been troubled with a severe pain through my back, so that it was almost impossible for me to sleep at nights. My husband got a sample of your Sparagus Kidney Pills from the Sentinel office and Wrought-iron Pipe for Gas, later a box from our druggist. They gave me almost immediate relief and now I believe I am entirely cured. I would advise all ladies troubled as I was to give Sparagus Kidney Pills a thorough trial. Most respectfully yours.

MRS. CHAS. S. EHRHARD. 77 East Walnut street.

Rheumatism and Kidney Disease Cured. Lochiel, Ind., Dec. 5, 1895. Hobbs Medicine Co., Chicago, Ill.

Gentlemen-Inclosed you will find a post-office order for 50 cents for which and to my address one box of Dr. Hobbs's Spara-gus Kidney Pills. Well, I suppose you would like to know how I am getting along. I have almost finished the second box of pills and feel almost cured. The rheumatism has left me entirely. I am in better health than I have been in years. I have ordered this box partly because I want to make the cure complete, and because I feel that I could not get along without them

If you can use my name to any advantage
I will not object, as I believe your medicine is all you claim it to be.
Yours respectfully,
EDWARD BROWN.